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Issue Date: 18 June 2003

Case No.: 2003-AIR-12

In the Matter of

**Coleen L. Powers,
Complainant**

v.

**Pinnacle Airlines, Inc.,
Respondent**

ORDER REGARDING OUTSTANDING MOTIONS

This matter is currently scheduled for hearing on October 15, 2003, in Memphis, Tennessee. On May 20, 2003, the Complainant filed her "*Complainant's Response to Court May 12, Order; Complainant Motion for Protective Order and Judicial Notice that Complainant Forwarded Respondent Discovery Requests/Responses to Respondent on February 11, and 12, 2003 via Facsimile and Electronic Transmission in Response to Respondent's February 5, 2003 Discovery Requests, RPDS # 1, 2, 3, 4, 6; Complainant Motion to This Court to Order Respondent to Amend Respondent's March 27, 2003 Motion to Compel Discovery Because it Contains Misleading and Demonstrably False Statements; Complainant Motion to This Honorable Court to Reconsider her March 5, 2003 Order Because it is Erred Due to Reliance on OSHA December 9, 2002 'Preliminary Findings' That 'Dismissed the Complaint' Which Contains Material and Substantively Incomplete and Inaccurate Interpretations by OSHA of Facts in the Record; These Objections and Applicable Statutory Laws in This Case Were Properly Noticed in the January 2, 2003 and January 25, 2003 Complainant Pleadings to this Court.*"

On May 26, 2003, the Complainant filed "*Complainant's Partial Responses/Objections/Motion to Court's May 21, 2003 Order Barring Edward Slavin From Appearance as Complainant's Counsel.*" On June 11, 2003, the Complainant filed "*Complainant's Response to Court's May 30, 2003 and June 3, 2003 Orders.*" Finally, on June 15, 2003, the Complainant filed "*Complainant's Partial Response to Respondents' May 30 and June 13, 2003 Filings.*"

On May 30, 2003, the Respondent filed "*Respondent's Response to Complainant's May*

19, 2003 and May 26, 2003 Pleadings,” and “Respondent’s Report to the Court on the Status of Discovery and Proposed Hearing Dates.” On June 13, 2003, the Respondent filed “Respondent’s Response to Complainant’s June 11, 2003 Pleading.”

In her May 26, 2003 pleading, the Complainant argues that my May 21, 2003 Order barring Mr. Slavin from appearing as her counsel in this case should be rescinded. The Complainant advances several grounds for this request, including her claim that her counsel is entitled to vigorously prosecute her case; that I mischaracterized Mr. Slavin’s statements; that Mr. Slavin’s due process rights were violated; and that she has a constitutional right to her choice of counsel.

I agree that the Complainant, and her former attorney, are entitled to vigorously prosecute her case. But no party to a proceeding, or their counsel, is entitled to make repeated and baseless attacks on the integrity and dignity of the Court. This was the basis for my Order barring Mr. Slavin from representing the Complainant in this proceeding. Contrary to the Complainant’s claims, I certainly did not misrepresent Mr. Slavin’s comments, which can be found in the pleadings almost word for word. Nor are there any constitutional issues presented by my Order, as the Complainant does not have a right to her choice of counsel. And even assuming that the Claimant had standing to raise violations of Mr. Slavin’s rights, there are no due process issues implicated, as Mr. Slavin does not have a constitutional right to represent the Complainant. Finally, I regretfully note that my Order barring Mr. Slavin from representing the Complainant has not registered an impression on the Complainant, as she continues in the same vein in her recent pleadings, with insulting and demeaning comments directed toward the Court, as well as counsel for the Respondent.

Accordingly, the Complainant’s request for reconsideration of my Order barring Mr. Slavin from representing her in this proceeding is DENIED.

The Complainant again takes issue with my March 5, 2003 Order dismissing her Sarbanes-Oxley claim. She advances no new arguments or support for her request, which has been denied three times. Accordingly, the Complainant’s request for reconsideration of that Order is DENIED.

In her May 20, 2003 pleading, the Complainant makes a request for a protective order with respect to Respondent’s request for production of documents, specifically requests number 7, 8, and 9, on the grounds that the requests are unduly burdensome, and that the requested documents are publicly available, or are sealed by court order. The Respondent notes that the Claimant did not respond to these, or any other of the Respondent’s document requests, despite my Order to Compel responses to these requests. Respondent argues that such a motion should have been filed when the responses were due, not after I granted the Respondent’s motion to compel. Respondent also indicates that it has informed the Complainant that it is willing to work with her to reduce the burden of production on her.

Accordingly, I will grant the Complainant's motion for a protective order at this time, to the following extent. First and foremost, the parties are directed to work together to resolve this issue. To the extent that certain documents are publicly available, the Complainant is directed to specifically identify such documents, including a description of the documents, the date of the documents, and their public location, but she will not be required to produce copies for the Respondent if these documents are readily available to the public. To the extent that any of the responsive documents are under seal by a court, the Complainant shall identify these documents and provide a copy of the court order placing them under seal.

In its May 30, 2003 pleading, the Respondent argues that the Complainant has not shown cause why her complaint should not be dismissed, and in fact has continued in unwarranted and contemptuous attacks on the Court and counsel for the Respondent. Respondent asks that the Complainant's motions be denied, and her claims dismissed based on her repeated misconduct. As the Complainant is proceeding *pro se*, I am willing to give her some latitude in prosecuting her claim. But again, the Complainant is reminded of her duty to treat the other party, and the Court, with dignity and respect. This obligation, of course, applies to both sides; the parties may strike hard blows, but they may not strike foul ones.

Accordingly, IT IS HEREBY ORDERED:

1. The Complainant's motion for reconsideration of my March 5, 2003 Order dismissing her Sarbanes-Oxley claim is DENIED.
2. The Complainant's motion for reconsideration of my Order barring Mr. Slavin from representing her in these proceedings is DENIED.
3. The Complainant's motion for a protective order is GRANTED in part, as discussed above.
4. The Respondent's motion for dismissal is DENIED.

SO ORDERED.

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LINDA S. CHAPMAN
Administrative Law Judge